IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1575 OF 2006

In

SUIT NO.2895 OF 1996

Malcolm Francis Anthony Pereira & Anr. : Plaintiffs

V/s.

The State of Maharashtra & Ors. : Defendants

...

Mr.M.P.S.Rao i/b. M/s.Wilfred Pereira & Co., for the plaintiffs.

Mr.Vaibhav Joglekar i/b. M/s.Manilal Kher Ambalal & Co., for defendant nos.5 to 9.

Mr.M.A.Saeed with Mr.A.J.Mohanty i/b. M/s.K.N.Damawa & Co., for defendant no.10.

...

CORAM : S.A.BOBDE, J.

DATE : FEBRUARY 7, 2007.

P.C.

1. By this Notice of Motion, the plaintiffs seek an injunction restraining the defendant nos.5 to 11 from dealing with the suit property. It appears that the plaintiffs moved this Court because the defendant nos.5 to 9 who also have rights in the property attempted to deal with the suit property, as a result of which the builder

gave an advertisement in the newspaper. Admittedly, there was an objection from the Collector since the land belongs to the Government and the matter before the Collector is being heard. The only apprehension expressed by Mr.Rao, the learned counsel for the plaintiffs, is that the defendants who also have rights in the property ought not to be allowed to deal with the suit property: (i) without permission from the Collector; and (ii) without notice to the plaintiffs who have also right in the property.

2. In the circumstances, it appears that the interest of justice would be served if the following order is passed:-

O R D E R

The defendant nos.5 to 9 are hereby restrained from dealing with the suit property in any manner without giving notice to the plaintiffs and without obtaining necessary permissions and authorisations in law for doing so.

S.A. BOBDE, J.